

### **REMARKS**

The present Amendment amends claims 1 and 6 and leaves claims 2-5 and 7-11 unchanged. Therefore, the present application has pending claims 1-11.

In the September 9, 2004 Advisory Action, the Examiner stated with respect to the request as set forth in the Remarks of the July 27, 2004 Amendment that the "April 6, 2001 Information Disclosure Statement is not a paper of record in the application" and that "the copy Applicants state was provided January 30, 2004 is not in the application". Applicants understand that apparently the document was lost due to United States Patent and Trademark Office processing since as of yet the Examiner still has not indicated that the reference cited therein has been considered. The Examiner now has in his possession a copy of the April 6, 2001 Information Disclosure Statement permitting its entry and consideration. Accordingly, entry and consideration of the reference cited therein is respectfully requested.

In the July 27, 2004 Amendment, Applicants amended claims 3-5, 7, 8, 10 and 11 to place them in independent form including all the limitations of the base claim and any intervening claims. An indication that these claims have been allowed is respectfully requested.

Further to the July 27, 2004 Amendment, claims 1, 2, 6 and 9 were further amended so as to more clearly describe that the control means according to the present invention controls an access timing to the memory unit based on memory control timing information and dynamically changes, during operation of the memory unit, the information stored in the memory control timing information storing means based on information from the monitoring means. These features of the present

invention is described in the present application in the paragraph bridging pages 4 and 5 beginning at page 4, line 22, through page 5, line 4 and on page 5, lines 5-14 are not taught or suggested by any of the references of record particularly Moyer (U.S. Patent No. 5,860,129) and Silvkoff (U.S. Patent No. 6,601,130) whether taken individually or in combination with each other or with any of the other references of record.

The above noted passages clearly describe that the memory controller is capable of changing a particular operation timing for a memory element, which is degraded only in terms of the operation timing, to continue stable operation without the need for shutting down the system. According to the present invention, the monitoring means included in the memory controller monitors the operating state of the memory unit during its normal operation and the control means based on the information from the monitor means dynamically changes information stored in the memory control timing information storing means thereby controlling the access timing of the memory controller to the memory unit.

The above described features of the present invention now more clearly recited in the claims 1, 2, 6 and 9 are not taught or suggested by any of the references of record whether taken individually or in combination with each other. These features of the present invention are clearly not taught or suggested by Moyer or Silvkoff whether taken individually or in combination with each other or with any of the other references of record. Therefore, reconsideration and withdrawal of the 35 USC §102(b) rejection of claims 1, 2, 6 and 9 as being anticipated by Moyer and the

35 USC §102(e) rejection of claims 1, 2, 6, and 9 as being anticipated by Silvkoff is respectfully requested.

In addition to the above described arguments distinguishing the features of the present invention from the references of record, particularly Moyer and Silvkoff, other arguments were presented in the Remarks of the July 27, 2004 Amendment. The Remarks of the July 27, 2004 Amendment are incorporated herein by reference.

In view of the foregoing amendments and remarks, Applicants submit that claims 1-11 are in condition for allowance. Accordingly, early allowance of claims 1-11 is respectfully requested.

To the extent necessary, the applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to the deposit account of Antonelli, Terry, Stout & Kraus, LLP, Deposit Account No. 01-2135 (500.39978X0).

Respectfully submitted,

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